

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

STEVEN MARGRETTA,

Plaintiff

vs.

TAMMY FERGUSON, *et al.*,

Defendants

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CIVIL NO. 1:CV-17-0037

(Judge Caldwell)

*O R D E R*

And now, this 19th day of January, 2017, in accordance with the accompanying memorandum, it is ordered that:

1. Plaintiff's motion for leave to proceed *in forma pauperis* (ECF No. 2) is construed as a motion to proceed without full prepayment of fees and costs, and is granted.

2. The Clerk of Court is directed to issue the Administrative Order to the Superintendent to begin deducting money from Plaintiff's prison account in the manner described in the Administrative Order.

3. Based on Eleventh Amendment immunity, the claims against the following defendants, in their official capacities only, are dismissed: Tammy Ferguson, Nadine Ramirez, Cheryl Garmon, Richard Hamor, Terry Gummo, and John E. Wetzel. The Pennsylvania Department of Corrections is also dismissed from this action.

4. Plaintiff's claims against Secretary Wetzel and Superintendent Ferguson are dismissed without leave to amend.

5. Plaintiff's state-law and due process claims are dismissed without leave to amend.

6. Plaintiff's equal protection claim is dismissed but with leave to amend.

7. Within twenty-one (21) days from the date of this order, Plaintiff may file an amended complaint setting forth his equal protection claim.

8. The Clerk of Court shall forward to Plaintiff two (2) copies of this court's prisoner civil-rights complaint form which Plaintiff shall use in preparing any amended complaint he may file.

9. Failure to file an amended complaint as directed within the required time will result in this action being dismissed pursuant to 28 U.S.C. § 1915(e)(2)(B)(ii) for the reasons set forth in the accompanying Memorandum.

/s/ William W. Caldwell  
William W. Caldwell  
United States District Judge